



July 10, 2002

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street SW, Room TWB-204
Washington, DC 20554

RE: Ex Parte – Telecommunications Carriers' Use Of Customer
Proprietary Network Information And Other Customer Information
CC Docket No 96-115

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Dear Ms. Roman Salas:

On July 9, 2002, Marc Rotenberg, Esq. and I of the Electronic Privacy Information Center met with Commissioner Michael J. Copps, and Jordan Goldstein, Esq., and Paul Margie, Esq., legal advisors to the Commissioner, regarding the Commission's Second Further Notice of Proposed Rulemaking (Notice) in the above reference docket.

In this meeting, EPIC elaborated on why the privacy protection of customer "approval," as mandated by Section 222(c)(1), can only effectively be obtained through an opt-out approach to telecommunications carriers' use of customer proprietary network information (CPNI). We emphasized that an opt-out approach has demonstrably failed to provide informed consent. We further discussed the recent developments relating to opt-in, including the D.C. Circuit's opinion in Trans Union v. FCC, 245 F.3d 809 (D.C. Cir. 2001), and the North Dakota referendum establishing opt-in privacy protections for financial data, which indicate that an opt-in approach should survive intermediate scrutiny.

A copy of this electronically filed notice is being submitted to the Secretary of the FCC in accordance with Section 1.1206 of the Commission rules. If there are any questions, please feel free to contact me.

Sincerely,

Mikal J. Condon
Staff Counsel

cc: Commissioner Michael J. Copps
Jordan Goldstein, Esq.
Paul Margie, Esq.